

Application No. 10/782,211
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REMARKS

Claims 6, 9, and 10 were rejected under 35 USC 112, second paragraph because the examiner deemed the terms “ethylene based polymers”, “softening agents”, and “copolymers of . . .” indefinite. The rejection is submitted to be moot for claim 6 have been amended to recite what is disclosed in the specification.

The rejection of claim 9 and 10 is traversed. Reciting weight % for one of two components in a composition naturally means that the weight % is based on the total weight of the composition (two components) because it cannot based on its own weight. It is also well known to, and the practice of, one skilled in the art what weigh % means. That is, the calculation is based on the weight of the composition.

Claim 7 is rejected because it contains trademark. Applicants agree and amend the claim as recited in the specification. The rejection is therefore moot.

Claims 1-7, 9, and 10 were rejected under 35 USC 103(a) over Narum (US6866928). The rejection is traversed for the following reasons.

Section 2141.01 of MPEP provides the following.

A 35 USC 103 rejection is based on 35 USC 102(a), 102(b), 102(e), etc. depending on the type of prior art reference used and its publication or issue date. For instance, an obviousness rejection over a US patent which was issued more than 1 year before the filing date of the application is said to be a statutory bar just as if it anticipated the claims under 35 USC 102(b). Analogously, an obviousness rejection based on a publication which would be applied under 102(a) if it anticipated the claims *can be overcome by swearing behind the publication date of the reference by filing an affidavit or declaration under 37 CFR 1.131*(italics applicants’)

According to MPEP 2141.01, an obviousness rejection based on a publication which would be applied under 102(a) if it anticipated the claims can be overcome by *swearing behind the publication date* of the reference by filing an affidavit or declaration under 37 CFR 1.131.

Narum has an issue date of March 15, 2005, which is more than two years after applicants filed their US provisional application on February 24, 2003. There is no need for applicants to file an affidavit or declaration under 37 CFR 1.131 because the filing date is already before the issue date of Narum.

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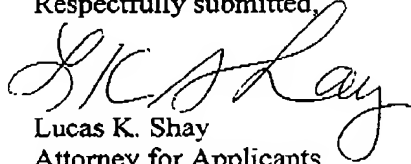
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The examiner may argue that Narum application was published earlier as US2003/0190464A1 on October 9, 2003. However, applicants' US provisional filing date February 24, 2003 is still much earlier than the publication date of US2003/0190464A1.

Accordingly, Narum is effectively removed as a reference under 35 USC 103(a), without the need of a declaration pursuant to MPEP 2141.01 because the fact so indicates. The discussion of the merits of Narum is therefore omitted herein for the interest of brevity.

Claim 8 is deemed allowable if it is rewritten as independent form. However, as discussed above, applicants in good faith believe that all claims are allowable and, therefore, have not rewritten claim 8.

Respectfully submitted,



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